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PAPER NUMBER

APPLICATION NO FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 09/888,400 06/26/2001 Reedok Lee LEEH3007/EM/6931 9479 11/19/2003 EXAMINER 23364 7590 BACON & THOMAS, PLLC PLVE, MARIA ALEXANDRA 625 SLATERS LANE

1725
DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

	La e e N	43
Office Action Summary	Application No.	Applicant(s)
	09/888,400	LEE ET AL.
	Examiner	Art Unit
The MANUAL DATE AND A	M. Alexandra Elve	1725
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above, its less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). Status		
1) Responsive to communication(s) filed on		
2a) This action is FINAL . 2b) ⊠ This	action is non-final.	
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.		
Disposition of Claims		
4) ⊠ Claim(s) <u>5-8</u> is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) ☐ Claim(s) is/are allowed. 6) ☒ Claim(s) <u>5-8</u> is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or election requirement.		
Application Papers		
9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. §§ 119 and 120		
12)		
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal P	(PTO-413) Paper No(s) atent Application (PTO-152)

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Araki et al. (US Pat. 5,821,500).

Araki et al. discloses a process and the welding wire obtained from it. The wire is subjected to an optimal heat treatment in order to modify the hardness. The wire is drawn to 2 to 4 mm in diameter with a hardness of the outer skin controlled to a Vickers hardness of 180 to 250 Hv. The raw wire having a hardness of 150 to 250 Hv.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 5-6 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Araki et al.

Araki et al. discloses a process and the welding wire obtained from it. The wire is subjected to an optimal heat treatment in order to modify the hardness. The wire is drawn to 2 to 4 mm in diameter with a hardness of the outer skin controlled to a Vickers hardness of 180 to 250 Hv. The raw wire having a hardness of 150 to 250 Hv.

Araki et al. does not teach the exact hardness difference as instant claims. The prior art discloses a product substantially similar to a claimed product, differing only in the manner by which it is produced. It has been held that one of ordinary skill in the art at the time of the invention would have considered the claimed product to have been obvious because of the similarity in the properties, and overlapping ranges. The burden falls to the applicant to show that any process steps associated with the claimed product result in a materially different product from those of the prior art, because there is nothing in the record before the examiner to reasonably conclude that applicant's product differs in kind from those obtained by the references. See In re Brown 173 USPQ 685 and In re Fessmann 180 USPQ 324.

Response to Amendment

Applicant's amendment necessitated new grounds of rejection. The response to applicant's arguments is most in view of the new grounds of rejection.

Application/Control Number: 09/888,400

Art Unit: 1725

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Alexandra Elve whose telephone number is 703-308-0092. The examiner can normally be reached on 6:30-3:00 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 703-308-3318. The fax phone number for the organization where this application or proceeding is assigned is 703-305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

November 16, 2003.

ALAS JANDRA ELVE

Page 4